

## **COUNCIL CHAMBER**

Regular Meeting

January 8, 2013

The twenty-sixth meeting of the City Council of Charleston was held this date convening at 5:00 p.m. in City Hall.

A notice of this meeting and an agenda were mailed to the news media January 2, 2013 and appeared in The Post and Courier January 6, 2013 and are made available on the City's website.

### **PRESENT ( 13 )**

The Honorable Joseph P. Riley, Jr., Mayor

Councilmember White	District 1	Councilmember Waring	District 7
Councilmember Hallman	District 2	Councilmember Seekings	District 8
Councilmember Lewis	District 3	Councilmember Alexander	District 9
Councilmember Mitchell	District 4	Councilmember Riegel	District 10
Councilmember Wagner	District 5	Councilmember Moody	District 11
Councilmember Gregorie	District 6	Councilmember Wilson	District 12

Mayor Riley called the meeting to order at 5:04 p.m.

The Clerk called the roll.

Mayor Riley said, "I would like to welcome Councilmember White back, who had an illness from which he is recovering very well; and Councilmember Riegel himself had a surgery over the holidays when he was out of town, which added to the complications. But, it's good to have both of our members back feeling well, and back in action with all of us. I will now ask Councilmember Dudley Gregorie to open our meeting with an invocation and then lead us in the Pledge of Allegiance to the flag."

The meeting was opened with an invocation provided by Councilmember Gregorie.

Councilmember Gregorie then led City Council in the Pledge of Allegiance.

Mayor Riley said, "Well, it's a pleasure to have all of you with us tonight. As we begin the meeting, I'd like to say a few words about a former member of the City family who was buried yesterday. Actually, that was the reason why I couldn't attend the Real Estate Committee meeting. Jeanne Jeffcoat served as a secretary to the Legal Department when she first joined the City in 1976, and then the next year, joined me as my Executive Secretary/Executive Assistant, the desk that Rita Donato had for many years after Jeanne, and Cathy Baker has now. Jeanne Jeffcoat was a native of Charleston, a graduate of schools here and was the most extraordinary public servant. Some department heads and City staff who worked with Jeanne attended her funeral yesterday; Jerry Ebeling, Frances Cantwell, Lawrence "Laurie" Thompson and others. She was so smart and so dedicated, and wise. She worked long hours. It was amazing. She beat me to work. In fact, I spoke at the burial yesterday and said that the only

time I really scared Jeanne was when I came in the office about 6:30 one morning, because it was something I had to write or I just needed to focus on. I could never beat her here. She got here at 7:00 in the morning. I get in early, but I'm usually not here at 7:00. I get here about 8:00, so I was seated to my desk writing. I did not notice she had come into her office, and she walked into my office to bring papers or take papers out, and let out this bloodcurdling scream because she saw out of the corner of her eye a man sitting in my chair that she did not expect to see. She worked from 7:00 in the morning until 6:00 at night, didn't take a lunch break. No one asked her to do that. During early years here with so many things going on and lots of challenges, all the City staff loved her, the Department Heads loved her, and she was such a remarkable person. As I said yesterday, she had an amazing command of the English language. You didn't need a dictionary with Jeanne, and she certainly didn't need spellcheck or anything. She was just an amazing person, she was eighty years old, who was sick over the holidays. We visited her many times in the hospital and she passed away this past week. Great public servant, and gave so much to our City and benefitted our City in so many ways, and we will miss her very much.

I would now like to ask Jim Ledbetter, who's the Executive Director of the Independent Transportation Network, and Dave Neff, Board Chair of the Independent Transportation Network, to join me on the podium for a presentation, and members of their board. Jim, you might grab a mic here. Let me get it."

Dave Neff said, "While we're grabbing the mic, I'll talk out loudly if I could. My name is Dave Neff. I'm the current Chairman of the Board of Directors for the Independent Transportation Network (*ITNCharlestonTrident*). We've been an organization that has been in existence for the past six years. Our mission is to provide affordable transportation services for the elderly who no longer drive or are visually impaired. So, this is a great service to people in our community who have that need. We just celebrated six years here of service. Over the years that we have been involved in providing this service, we've actually done over 35,000 rides, and that has not only helped our member riders if you will, but has also benefitted their families. The City of Charleston and Mayor Riley, in particular, were very, very helpful in terms of helping us startup our organization. Again, a non-profit is often relying on community support, and the City of Charleston has provided us financial support over the past six years. Not only that, Mayor Riley has also served as one of our volunteer drivers. We kind of volunteered him, and he actually transported a patient to the medical center, which is where I work. My regular job is I'm an administrator at the medical center. He actually transported a patient to the medical center, one of our member riders that was celebrating our 5,000<sup>th</sup> ride, and then on our 25,000<sup>th</sup> ride, we were able to enlist his support again, and he provided that. So, we're really thankful to Mayor Riley and the City of Charleston for the support that you all have provided; again, a great service to the community. I have Jim Ledbetter here, our Executive Director, Cornelia Pelzer and Carol Campbell, they're also our board members. We are here to present this plaque to Mayor Riley and the City of Charleston for this wonderful service, and we appreciate all of your support. We have a quick three minute video we want to share with you that I think will tell you a little bit about what *ITNCharlestonTrident* is all about. Again, thank you for your support of *ITNCharlestonTrident*."

Mayor Riley said, "Thank you very much Dave, Carol and Jim. Thank you very much. Just very briefly when the idea was posed to me, it seemed so clever, and it is, using substantially volunteers with relatively modest cost considering what is gained to give people freedom; and that's exactly what it is. Think, if, all of a sudden, you for all of your adult life have been driving a car, the freedom of getting where you want to go, and being able to decide yourself and losing that. Losing that due to, as they said, vision impairment or age, and to all of

a sudden, have that given back to you with a friendly volunteer, meeting you at an assigned time and taking you where you want to go. The only two times that I have volunteered were so pleasurable, just to feel the joyful sense of being able to get around and also to have company. Usually, people who are elderly and either living alone or, in the instance, the 25,000<sup>th</sup> rider had either a niece or nephew who had moved down here, but the company of someone to chat with and spend some time with to get where you're going is just really wonderful. It's an amazing achievement. Thank all of you and all the people who support this effort, and the City is very proud to be a part of it. Thank you all so very much."

Dave Neff said, "Thank you Mayor. We appreciate it."

Mayor Riley said, "Sure."

Dave Neff said, "Often when we're picking up some of our members on occasion it rains, and so next time we line you up, Mayor Riley for a ride, here's the number and umbrella so you can use if happens to rain on that day."

Mayor Riley said, "Fabulous. Thank you very much Dave. Thank you very much Jim, Carol and Cornelia. Terry Brown was the first, I guess, Terry and Jim met with me when the idea was proposed."

The video presentation was shown to Council.

Applause filled the Chamber after the video presentation.

Mayor Riley said, "Thank you all so much. Next, we have the approval of the December 18<sup>th</sup> City Council minutes."

On the motion of Councilmember Lewis, seconded by Councilmember White, City Council voted unanimously to approve the minutes of the December 18, 2012 City Council meeting.

Mayor Riley said, "Next is our Citizen Participation Period, which allows citizens to address City Council on any matter they wish. This is the only public hearing, as such, we will have tonight. So, if there's anything you would like to discuss with City Council, this is the time. So, let me get an idea of how many people would like to be heard during Citizen Participation. (The Mayor counted 15 citizens.) It's a 30 minute period, so we ask everyone to try to keep their remarks within two minutes, and so whoever would like to be first. I know Terry, but if you give your name and address, it helps the Clerk and her staff in transcribing the minutes of the meeting."

1. Terry Seabrook said, "Good evening. Thank you very much. My name is Terry Seabrook. I want to thank you very much for this opportunity to bring, just to ask you really for some assistance. I spoke with my Councilman, James Lewis, earlier this week about the fact that I'm having a difficulty with regard to parking at my office on Spring Street. Unfortunately, my office is in an area that is in one of the residential parking areas, and it's zoned for residents only. However, I have owned that building and my business has been in that building for 27 years this month. The parking ordinance does not allow for businesses to have any stickers or to allow for employees to park in the area. The one hour doesn't really present a problem for my clients because most people are in and out of my real estate business. However, I'm having a significant problem with parking my employees at that location, and I have been there, as I said,

my business has been there for 27 years, and I've owned that building for many years. I am just really asking for assistance and asking if you all would consider revisiting the residential parking ordinance, and allowing businesses in those areas to be able to at least park some of their employees during the day. It's becoming a serious burden for me and my employees, but I thank you very much for your consideration."

Mayor Riley said, "Thank you very much Terry. Okay. Let's see, you want to do one side or the other or take turns, maybe we try one over here. Yes, sir."

2. Jim Metzger said, "My name is Jim Metzger. I represent one of the homeowners associations in the Grand Oaks subdivision, and I need to bring up an issue that has developed recently in our neighborhood. Namely, it is a rapidly growing infestation of wild hogs that are doing considerable damage to the lawns and property of, at this count, 24 homeowners and growing. Just for the record, I have photos if anyone wants to see them. They have been shared with your office already. So, what can I say? Wild hogs have been known, they're not indigenous to this area; they've been here for 400 years and cover the entire state. What's new is that they're in our neighborhood, and that seems to coincide with the widening of Bees Ferry Road and the new development along Proximity Road. They have disturbed their habitat. Of concern is not so much the damage to the yards, which is relatively easy to repair, but it is the danger, the threat that these wild hogs pose to residents, the people. They're carnivorous. They can grow to be 200 pounds, and they are very aggressive and vicious. After they get done eating all the worms and grubs in your yard, they will go after your pets, your children, and the bigger ones have no qualms about going after an adult. So, they represent a very serious threat in our neighborhood, and what I would like to ask is your assistance, basically, in telling us how we can deal with this. Is there anything we can do? Are there any experts out there? They make good eating if you want to shoot a few of them. That would be fine. I want to bring it to your attention and see if you can offer any assistance whatsoever. We would appreciate that."

Mayor Riley said, "Thank you very much for coming. I've seen the photographs, and I know it's something we're all trying to figure out. Thank you. It was very helpful to have you personally come tonight."

Mr. Metzger said, "Thank you."

Mayor Riley said, "Councilmember Wagner told us that you might be coming, and we thank you for coming. Yes, sir. Okay, How about on this side. Yes, sir."

3. Warwick Jones said, "Warwick Jones, 71 Anson Street. Cruise ship. A lot of the claims of CCL would be put to rest, I hope, from the decision of Judge Newman. It seems, though, those claims relating to pollution as a nuisance may linger. I'd like to address one of those pollution claims. The emissions of cruise ships are so bad, the citizens' health is threatened. Even when the ships burn cleaner fuel next year, it will be bad. It will be like the emissions from 34,000 idling tractor trailers it is claimed. CCL has defined pollution in terms of sulfur dioxide in the letter that it sent out to its members recently seeking money to pursue the court issues. The EPA mandates that the diesel fuel used by tractor trailers contain no more than 15 parts of sulfur per billion. MARPOL regulations, which will take effect next year, mandate the fuel burnt by cruise ships and port will contain no more than 1,000 parts per million of sulfur. The Carnival Fantasy burns a hundred tons of fuel a day when at sea, when cruising. When at port for ten hours, engines idling provide powerful light and air-conditioning. Consumption is no more than about four tons. At 1,000 parts per million, the sulfur content of four tons is eight pounds, emitted at the rate of less than one pound an hour and over ten hours

twice a week. Let's put this all into perspective. Black powder or gunpowder is a major ingredient in fireworks. It propels the rockets; it creates the bangs and explosions. Sulfur comprises anywhere from 10-15 percent of gunpowder, and I guess the black powder probably represents about 50 percent or more of the contents of any firework. Statistics on firework displays are hard to find, but checking the net, it's reported that Macy's sets off 24 tons in its display in New York. Assuming half that amount represents packaging and black powder makes 50 percent of the rest, the sulfur content could be over 1,000 pounds. I don't know what Charleston burns in its displays, probably two to four tons, but the sulfur content would still be more than 100 pounds and probably double this if you added the displays of the other municipalities and citizens of Charleston. Another comparison, in 2008, MeadWestvaco acknowledged the odor from the paper mill across the river in an interview with the Daniel Island News. It was in compliance with regulations it said. At the time of writing, emissions were running about 30,000 pounds a year, down from 180,000 pounds. Much of the emissions were sulfur-based. With future cruise ship emissions likely to amount to 100 pounds a year, it makes you wonder what the fuss is about. Thanks."

Mayor Riley said, "Thank you very much. Yes, sir."

4. Steve Akman said, "Afternoon, my name is Steve Akman. I am the Medical Director for Cancer Care for the Roper St. Francis Healthcare System. I'm here to represent the senior leadership of Roper St. Francis in strongly supporting the smoking ordinance that the Council is considering. I've been taking care of cancer patients for about 37 years. The medical epidemiology data is quite clear that sidestream smoke is a detriment to all of us, but the data is very clear that the people who are particularly at risk for adverse effects of sidestream smoke are people who already have pre-existing chronic illnesses or congenial illnesses. If you think about the citizens who are going to be walking the streets that are covered by the ordinances, these are individuals and families who are coming to Roper St. Francis and to MUSC for healthcare. So, these individuals are at the most risk for the adverse effects of sidestream smoke. Therefore, we strongly urge you to consider this ordinance favorably. Thank you."

Mayor Riley said, "Thank you very much. Yes, ma'am."

5. Sundi Herring said, "Good evening, my name is Ms. Sundi Herring. I'm the Manager of the American Cancer Society Hope Lodge at 269 Calhoun Street. I'm here tonight to also speak in favor of the smoke-free district ordinance. I see the evidence of the Sergeant General's warning in 1964 everyday. What I also am hoping that you will consider tonight, and I also put a letter at each of your places, is the enclosure of the boundaries to include the American Cancer Society Hope Lodge. We are a free home away from home for cancer patients, and they're going to their treatments at the hospitals to and from the Hope Lodge every day. Primarily, the rides are given by the Public Safety Department at MUSC, so it would be easy for them to include us with that. We truly are a part of that medical district, so I really appreciate your consideration. Thank you very much."

Mayor Riley said, "Thank you very much. Yes, ma'am. Then, next, the doctor."

6. Rhonda Walters said, "Good afternoon. Thank you for this opportunity. I'm here on behalf of the residents of James Island, not opposing, but asking the City of Charleston to maybe slow down or, for right now, help the residents of Old Military Road and Grimball Road Extension to deal with some development that's coming forward. I am Rhonda Walters and I am a resident of 1661 Old Military. Jack's Auto Salvage has sold his property, which he has the right to do so, and there are plans for 294 multifamily dwellings to come there. I'm not in

objection to that. What I'm objecting to is that plans took place and the residents at Old Military and Grimboll Extension were not aware of this development. We were sort of, I don't want to use the word hoodwinked, but we saw the signs. A few of the citizens came to your last meeting, and voiced their concerns. We're asking for an opportunity to meet with the developer, hear the concerns because there are folks that have been living there for many years, like my parents, and Roper. My grandmother owned property for many years, and died at 101. We just want a chance to voice some concerns and get the developer to work with us to get some things done. Right at the intersection of South Grimboll and Grimboll Extension, there's traffic going to Folly Beach; that traffic poses quite an impact on the citizens of James Island. We'd like for some work to be done there, a traffic light to go there, perhaps sidewalks or the developer to speak with us to hear some concerns and issues we may have. So, we're asking for the City of Charleston not to stop it, but maybe slow it down and ask the developer to get back with the citizens that live in that area to speak with us and help us to deal with some concerns we have."

Mayor Riley said, "Good deal. Thank you, ma'am. Tim Keane is the gentleman right here, and if you give him your name and address, he's the City Planning Director, he'll will get in touch with you all. Let me let the doctor come forward, then we'll get you. Yes, sir."

7. Dr. Thaddeus Bell said, "Good evening my name is Thaddeus John Bell. I'm a practicing physician here in Charleston, particularly in North Charleston. I've been practicing medicine in this community for more than 30 years. This past weekend, I had the opportunity to have a very enlightening discussion with Mr. Mitchell, and I listened to him very, very closely, and, frankly, I do appreciate where he's coming from. However, one of things that I explained to him is that I too have spent all of my life involved in the rights of African-Americans and the underserved population. Rather than going into politics, however, I decided to practice medicine. For those of you who may not know, you may hear my voice on the radio almost everyday, encouraging African-Americans and the underserved population to lead healthy lifestyles. I won't bore you with a whole lot of statistics, but I do want to make you aware of some things. My practice is 95 percent African-Americans. I consider myself somewhat knowledgeable about health disparities because I see health disparities in my practice everyday. For those of you who may not be aware of what health disparities are, health disparities are when a clinical situation has a burden of effect on one group of people, greater than another group of people. It is very, very well-documented that African-Americans and the underserved population experience a significant amount of health care disparities. Smoking and secondhand smoke is one of those health disparities. Sunday afternoon, on my way from church, I was walking down King Street and got behind several teenagers who were smoking. I'm a fairly healthy guy, only medical problem, acting medical problem that I know about is hypertension, which I take medication for, so I have pretty good lungs. I was blown away, literally blown away at the difficulty that I had breathing walking behind three teenagers smoking cigarettes. So, I am definitely in favor of what I refer to as 'healthcare islands' for lack of a better term. I can tell you that secondhand smoke, the data clearly suggests, affects children, it affects women, it affects African-Americans. It particularly affects people who are sick. One of the things that I was telling my good friend Keith Waring about is that the data even shows that if you walk behind or walk through smoke just one time, it is capable of causing significant illness to the person who inhales that. So, I'm in favor of what I refer to as the 'healthcare islands'. Thank you very much Mr. Mayor."

Mayor Riley said, "Thank you doctor. Yes, sir."

8. Matthew Ruby said, "Yes, sir. I would like to thank you for the opportunity to speak. My name is Matthew Ruby, and I live at 1650 Bryce Road. My property adjoins Jack's

Auto Salvage, and I too just found out about the development at the Zoning meeting. I would just like to ask the City of Charleston not to let the development fast track until the residents on the opposite of Ocean View have the opportunity to maybe meet with the developers, and work on the buffers and things like that to ensure the quality of life on the opposite side of the neighborhood will be as good as the other side there, and traffic and other things. Thank you for your time. Thank you."

Mayor Riley said, "Well thank you very much. I know Mr. Keane will connect with you all."

The Mayor recognized Councilmember Wilson.

Councilmember Wilson said, "Given that development is in my district, if Mr. Keane would work with me, I would very much appreciate it. I think these residents are being very reasonable. They're going to have some questions, they have concerns. I think they can be very easily and quickly answered. So, if Mr. Keane would stay in contact with me, I would like to work with him on that. Thank you."

9. Mohammed Idris said, "Good evening Mayor. Mohammed Idris. Good evening. We're here tonight asking you all to support us in helping to preserve the east side of the City where there are people moving, moving, moving, and taking over the neighborhood; where there are African-Americans being moved, moved, and moved from the east side of town. We ask you to look into that and stop the movement that is taking place. It's a shame to be squeezed out, to be squeezed out like we are being squeezed out on the east side. It's a shame before God. Sooner or later, Sandy or something like that is going to take place to stop this that is going on. I see the Mayor writes like he's going to help. He writes, and he writes, and he writes, but nothing takes place, and that's a shame before God. So, you all should look into that. Thank you."

Mayor Riley said, "Thank you very much. Anyone else on this side. Yes, ma'am."

10. Reverend Dungee said, "Reverend Alma Dungee, President of North Central Neighborhood. Our boundaries are from Congress and King to Mount Pleasant and King, and from Mount Pleasant and Rutledge to Mount Pleasant and Congress and to the tracks' side. I think I gave the Mayor about 40 dilapidated houses, and he stated that he had to find the heirs to the property. We already have about ten. We have about 30 more. I would appreciate it if you could find out the heirs to those properties, so something could be done to them, so others can be able to occupy them. Thank you so much."

Mayor Riley said, "Thank you very much Reverend. Yes, sir."

11. David White, Jr. said, "Good evening. My name is David White, Jr. I'm actually representing R38, a new non-profit here in the Charleston area. On behalf of Eric Jackson and Kimberly Jackson, I would like to introduce our organization to the Council and the City of Charleston. We look forward to working with you in a synergistic relationship."

Mayor Riley said, "Thank you very much. Yes, sir."

12. Stephen Shapiro said, "Hi, my name is Stephen Shapiro, 74 Montagu Street. I would like to talk about this smoking ban, as I am in support of it. I don't find that it's necessary for the Charleston Police force to enforce it by writing tickets to those who are smoking

cigarettes. If there is some way that either MUSC or Roper could have jurisdiction over these territories and use their service to do that enforcement, I think that could be a better route as opposed to using our City's police force. Thank you."

Mayor Riley said, "Thank you very much. Yes, ma'am."

13. Susan Johnson said, "Hi, I'm Dr. Susan Johnson. I am the Director of the Office of Health Promotion at MUSC, and I have been the lead person representing MUSC and Roper in working with Mayor Riley and Tim Keane on the smoke-free medical district ordinance that we'll be addressing tonight. I want to thank you so much for your consideration and being very thorough in looking over all the issues, and I just wanted to let you know that we are definitely prepared for the eventuality if this does go into law on March 1st. Our Public Safety officers, our Department of Public Safety, and Roper Security will be solely responsible for enforcing that ordinance. I also want to emphasize the fact that of the over, I know it's over 2,300 outdoor smoking bans in the United States, and that number is increasing rapidly. The majority of those are self-enforced ordinances. The only way that a law can be self-enforced is if there is law in place. So, our goal with this ordinance is to inform the public, provide support, and we are prepared to do that. I can answer any questions related to that. We do have smoking cessation programs already in place, free programs at MUSC and at Roper for our employees. That includes classes and cessation medications. They are free of charge. We also offer to our visitors and patients free Nicorette gum, if they feel that they need to have that support, and Roper also has services available to their patients and visitors. So, if you have questions tonight related to our ability to implement this new ordinance, I'd be happy to answer those questions. Again, I want to thank you for your consideration."

Mayor Riley said, "Yes, ma'am."

14. Heather Templeton said, "I'm nervous. Hi, Mayor Riley. Hi, City Council. Heather Templeton. I'm here to talk about Dereef Park again. I'm following this, obviously, you know because I've spoken to you several times over the last six months. There are two issues that have come up that I want to make sure you are aware of, and I want to make sure you are appropriately addressing just the protector of our City. One is that you had previously approved an amendment with a developer to allow him to move a church from its current location into the park. That amendment went through and it was approved. The amendment actually had a date on it of 12-31-2012 that the developer needed to move forward with. That date has now passed, and there has been no movement on the church. Nothing's happened. When I contacted the State Historic Preservation Office, they actually haven't seen written request for a FEMA variance. So, I'm asking you to revisit the amendment, put a new date in place, whatever you need to do, but do not let him move that until you have addressed it from a legal standpoint and a contractual standpoint. I believe that's a fair request. Second, since I've gotten involved in this project, I have uncovered that this park was originally acquired in 1981 and then built in 1991 with land and water conservation fund grants. There was roughly \$200,000 together, \$100,000 in grants, a significant amount of money back then. Later, the City entered into an agreement with this developer to build a new park or change the park or change the site, whatever you want to call it. The new park property is actually smaller than the original request for the land and water conservation fund. So, the City had to go and find a new place for a new park to transfer those easements to. They did do that. They went through the process, but I feel like they haven't appropriately addressed the replacement park, which happens to be down on Concord and Laurens and Calhoun. It's a small strip of land. You couldn't identify it before, but after I submitted some information, it is now marked off with white paint, and it has a little sign that says land and water conservation fund. That's supposed to be the replacement park for

Dereef Park, and I find that a mismatch. I find it a problem, and I'm asking you to reconsider actually giving us back our full .84 acres of a park, that was originally approved by City Council in 1990's and 1980's. It's Heather Templeton, 69 Cannon Street. Thank you."

Mayor Riley said, "Thank you very much. Would anyone else like to be heard? Yes, sir."

15. Dr. Patrick Cawley said, "Mr. Mayor, and Councilmembers, thank you for allowing me to speak. My name is Patrick Cawley. I'm the Chief Medical Officer and a Hospital Medicine Physician at MUSC, and I'm here today on behalf of almost 2,500 physicians and medical students at MUSC. I include the medical students because they were instrumental years ago to MUSC in starting to promote tobacco cessation both on campus and to help enact this health island, as Dr. Bell mentioned. They got involved in this because they started to learn the impact of tobacco in society, the disparities and the difficulty we have in getting patients who have medical problems to stop smoking, and the difficulty we have is amazing. If you've ever seen someone who's got bad emphysema or has known cancer try to get treated and try to stop smoking, it's very tough, because there's this fatalistic approach. 'I have bad lung disease, there's nothing much I can do.' The evidence is completely to the contrary. The group that can be helped the most by tobacco cessation is the patients who have disease. We spend a lot of time at MUSC trying to get patients to stop smoking, only to have to walk across the street to their car through a haze of smoke. It's hard, and I ask you to support the tobacco-free zone to help the patients that come to see us every day. Thank you."

Mayor Riley said, "Thank you very much. Yes, ma'am."

16. Mrs. Tellis said, "Alice Tellis Critikos. Grove Street. I've heard tonight about the fumes from the ships. We got to get rid of those. We also have to get fumes from the garages. The garages are full of fumes and we just go in there, and we just inhale it. That's okay, for that okay. The smoking on the outside of the properties, I can't understand that too much because we have narcotics on the streets; we have worse things on the street than smoking. I believe that MUSC should have their parks free of smoking; that's reasonable. The other day when we were here, we heard if somebody had a cigarette and dropped it that we might give them a \$25 ticket, but I would like to have the Police Department know, how many more policemen are you all going to put on the police force to take care of all these little cigarette butts. I can't understand if this is a free country or one shoe fits all, or we all have different opinions about our country. The first things we should stop, stop taxes. Thank you."

Mayor Riley said, "Thank you very much. Anyone else want to speak during Citizens Participation?"

17. Reverend Dungee said, "Mayor, there's something else I meant to tell you also. I meant to say also with the people losing their houses for \$1,000, \$1,500, I always call Councilmember Mitchell to come out and help. Can you all do something to save some of these houses, and if they can't pay you, then the City becomes the owner because I can't see them losing a whole house for \$1,500 or \$1,000 in my community. I've been there for over 50 years, and I sure would like to see something being done to help some of these people. If they can't pay you back, then the City becomes the homeowner because \$1,500 and \$1,000 is not much to lose a whole house for. Thank you."

Mayor Riley said, "Thank you very much. That concludes our Citizens Participation Period. Now, I'd like very much to add something to the agenda. Councilmember Lewis, if you would join me up here, please. Councilmember Lewis, yes, sir."

Members of Councilmember Lewis' family entered the Chamber.

Mayor Riley said, "Councilmember Lewis, you know how to draw a crowd."

There was laughter in the Chamber.

Mayor Riley continued, "I would like to ask all of the members of the Lewis family to come up here, please. Come on up here with our esteemed Councilmember, and thank all of you so much for coming. Weren't they nice and quiet down there, Councilmember Lewis?"

There was more laughter in the Chamber.

Councilmember Lewis said, "No wonder I was stopped when I went outside. I've never been so shocked in my life."

Mayor Riley welcomed the Lewis family onto the stage.

Mayor Riley said, "I'd like to issue this proclamation and then say a few words."

Mayor Riley read the proclamation.

--- INSERT PROCLAMATION ---

Mayor Riley said, "Councilmember Lewis, congratulations."

There was a standing ovation.

Councilmember Lewis said, "I have never been so speechless."

Laughter filled the Chamber.

Councilmember Lewis continued, "How did they do this, and I didn't even know anything about it. I just want to thank the Mayor for this proclamation, and again, I want to thank the 10 City Councilmembers at my retirement party Friday. I was so happy. I want to thank my family, and no wonder my daughter wasn't answering her phone today. Something was wrong. I want to thank each and every one of you. It's because I live in a good City that I've been able to do this good work with pay. The Mayor has known me for a long time because I used to push his two sons around in the grocery basket at the Piggly Wiggly on the corner of Broad and King Streets, which a lot of people didn't know that a Piggly Wiggly was there before. Certainly, I want to thank God for the years that he enabled me to serve the citizens of this community through the Piggly Wiggly and through that great work and enabled me to serve the citizens of this great City as a member of City Council. Thank you."

Applause filled the Chamber.

Mayor Riley said, "I would just like to reinforce right down there near King Street on Broad was the Broad Street Piggly Wiggly, and my wife said, 'there's the nicest gentlemen there.' When she would bring the boys in, he would be so kind to them, and usually one of them would be seated in the grocery basket, and the recognition then of his kindness, which we all have gotten to see, is what marks Councilmember Lewis, I think, most of all. His dedication, the

time he commits with the kind, giving way that he approaches life. We've been so fortunate to have his service on City Council and for the countless thousands and thousands and thousands of patrons of Piggly Wiggly for 41 years had this very fine and kind man serving them. Councilmember Lewis, congratulations."

Councilmember Lewis said, "Thank you."

Applause filled the Chamber.

Councilmember Lewis, introducing his children, said, "This is my oldest son. That's my daughter. That's my youngest son. The rest are sisters and brothers. Thank you all. My prayer partner, where is she? Right here. Mr. Mayor, we've been friends for over 20 years."

Mayor Riley said, "Is that right?"

Councilmember Lewis said, "We've been praying together every morning for over 20 years."

Mayor Riley said, "Bless your heart."

Councilmember Lewis said, "And she's my Campaign Chairman."

Mayor Riley said, "Councilmember Lewis, I'd like to publicly thank our Clerk and her staff for preparing that beautiful proclamation. They always do such a wonderful job, and let's give them a big round of applause."

The Clerk added, "And Debra."

Mayor Riley said, "And Debra Matthews, indeed."

Councilmember Lewis said, "Thank you all."

Mayor Riley said, "Debra prepares them so beautifully."

Mayor Riley continued, "Next, we have the Tourism Commission Report."

The Clerk, who is also the Tourism Director, said, "Members of Council, the Tourism Commission at their last meeting voted to send these two ordinances to Council for amendments to the Code. I attached a memo, but I can go through them, Item 'a' deals with the extension of the Commercial Route. You might remember that last year, we implemented a pilot program to allow the carriages to do additional tours between the hours of 4:30 and 6:00 p.m. Prior to doing that, Councilmember White was with us, and we met with the French Quarter Neighborhood Association to make sure that they were comfortable with the route, and they were. At the last meeting of the Tourism Commission, one of the representatives who serves on the Commission is also a member of the French Quarter Neighborhood Association, and there have been no problems with the use of the route, so we would like for this to move forward.

Secondly, Item 'b' deals with something that we all do every day. It is requesting that the carriage companies have onboard their carriages proof of insurance. They do provide proof of insurance to our office, the Tourism Office, as well as when they get their business license and certification, but often times, if there is an accident or an incident of some sort, the police officer

will either have to call our office or go back to the barn to get copies of their insurance. So, this is clearly asking them to make sure that there is an insurance letter or a card or something onboard their carriage. There were representatives from the carriage industry at the meeting, and they didn't think that this was going to be a problem."

Mayor Riley said, "Thank you. Is there a motion to approve both ordinances?"

The Clerk said, "That gives them first reading."

Mayor Riley said, "First reading, yes."

Mayor Riley recognized Councilmember Alexander.

Councilmember Alexander said, "Thank you, Mr. Mayor. One question on Item 'b', maintaining current liability insurance, and I've shared this story with the Clerk, of a citizen who got into a wreck with one of the tour buses and subsequently learned that this bus did not have insurance, or it had lapsed. How do we handle that? Is there an ordinance requiring these other types, mechanical tour companies, how do they prove it? Should they not also have in their vehicles proof of current and active insurance?"

The Clerk said, "Motorized vehicles are required to have insurance."

Councilmember Alexander said, "That is in the State law. Is that correct?"

The Clerk said, "Yes, and that is a part of their certification process. They do have to provide us with their insurance, so that was sort of an unusual circumstance."

Councilmember Alexander said, "Just curious."

The Clerk continued, "But, yes, they are required. It's already a part of the State law."

Mayor Riley said, "Thank you, Councilmember Alexander. Is there any further discussion?"

On a motion of Councilmember Gregorie, seconded by Councilmember Lewis, City Council voted unanimously to give first reading to two (2) bills:

*An ordinance to amend the Code of the City of Charleston, South Carolina, Chapter 29, Article V, to amend Section 29-206 by adding subsection (g) an amended commercial route for animal drawn vehicles.*

*An ordinance to amend the Code of the City of Charleston, South Carolina, Chapter 29, Article VI, Section 240 to mandate that carriage operators must maintain current liability insurance information on their carriages at all times.*

Mayor Riley said, "Next, we have the Ways and Means Committee Report. The Committee Report, of course, contains the recommendation of the Real Estate Committee, which was the annexation of land on Clements Ferry Road that allows for the expansion of the SPARC Campus in the City of Charleston. This is an amazing company, information technology, computer software company that's adding 300 jobs and is a wonderful part of the City's powerfully growing information technology, knowledge-based economy, and the digital corridor.

So, we're so happy that SPARC is here and so proud that that wonderful, economic expansion is occurring in our City. Is there any further discussion?"

On a motion of Councilmember White, seconded by Councilmember Mitchell, City Council voted unanimously to approve the Report of the Committee on Ways and Means as presented.

--- INSERT WAYS AND MEANS REPORT ---

(Bids and Purchases

(Police Department: Approval to submit the 2013 Justice Assistance Grant (JAG) SC Department of Public Safety grant application in the amount of \$90,573 to purchase a Discharged Cartridge Case Fingerprint Enhancement System. There is a City match of \$9,058.

(Police Department: Approval to submit the 2013 Justice Assistance Grant (JAG) SC Department of Public Safety grant application in the amount of \$494,841 to purchase a Crime Prediction and Prevention Solution System. There is a City match of \$49,484.

(Office of Cultural Affairs: Approval to accept a grant award in the amount of \$500 from the Elizabeth C. Rivers Lewine Endowment Fund of Coastal Community Foundation for the 2013 Piccolo Spoleto Festival. No City match is required.

(Police Department: Approval of a Mutual Aid Agreement and a Narcotics Enforcement Agreement with the City of North Charleston, SC Police Department to aid in law enforcement and narcotics operations.

(Police Department: Approval of a Memorandum of Understanding between SCiEx and the Charleston Police Department, which will allow storing and sharing of information between law enforcement agencies. This will help to investigate, solve and deter criminal activities.

(Consider the following annexation:

Clements Ferry Road (TMS# 271-00-02-159) 6.84 acres, Cainhoy, District 1

First reading was given to the following bill:

*An ordinance to provide for the annexation of property known as Clements Ferry Road (6.84 acres) (TMS# 271-00-02-159), Cainhoy, Berkeley County, to the City of Charleston and includes all marshes, public waterways, and public rights-of-way, shown within the area annexed upon a map attached hereto and make it part of District 1.*

Mayor Riley said, "Then, we have bills up for second reading, and we might pull Item K-3, and take care of that separately. So, we have K-1 and K-2."

Councilmember Mitchell said, "I make a motion that we do K-1 and K-2 together and separate K-3."

Councilmember Hallman seconded the motion.

Mayor Riley said, "Thank you, Councilmember Mitchell. Is there any discussion?"

The Clerk asked if that was the motion for second reading.

Mayor Riley said, "Second reading, bills up for second reading."

On the motion of Councilmember Mitchell, two (2) bills (Items K-1 through K-2 on the agenda) received second reading. They passed second reading on motion of Councilmember Hallman and third reading on motion of Councilmember Mitchell. On further motion of Councilmember Lewis, the rules were suspended and the bills were immediately ratified as:

**2013-01**      AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT MORRISON DRIVE (PENINSULA) (2.61 ACRES) (TMS #459-02-00-008, 018 AND 022), BE REZONED FROM MIXED USE WORKFORCE HOUSING (MU-1/WH) CLASSIFICATION TO MIXED USE (MU-2) CLASSIFICATION.

**2013-02**      AN ORDINANCE TO PROVIDE FOR THE ANNEXATION OF PROPERTY KNOWN AS 1109 WAPPOO ROAD (3.30 ACRES) (TMS# 351-15-00-003), ST. ANDREWS PARISH, CHARLESTON COUNTY, TO THE CITY OF CHARLESTON AND INCLUDES ALL MARSHES, PUBLIC WATERWAYS, AND PUBLIC RIGHTS-OF-WAY, SHOWN WITHIN THE AREA ANNEXED UPON A MAP ATTACHED HERETO AND MAKE IT PART OF DISTRICT 7.

Mayor Riley said, "Item K-3 is the ordinance concerning the smoke-free district, and I'm going to ask Tim Keane, our City Planning Director, if he would come forward and explain changes to the ordinance or amendment to the ordinance that is before you tonight for second reading."

Mr. Keane said, "Mayor, if it's okay, I'm going to pass out a map to you and the Councilmembers to help with this discussion."

Mr. Keane passed out maps to Mayor Riley and the Councilmembers.

Mr. Keane continued, "Frances Cantwell is here, as well, and has an updated ordinance. The only changes in this ordinance from the one that you saw a couple of weeks ago and approved on first reading, are these, and I can point them out on the map here. So, this map of the hospital district area in red identifies the streets that would be subject to the no smoking ordinance, and the changes from then, first reading to tonight, are these two. First, Councilmember Lewis had requested that we move the line on the north side down to Bee Street, so we've done that. If you remember, the map we looked at previously, included Cannon Street, and part of the Septima Clark Parkway, and then the streets connecting Bee Street to Cannon Street. So, we've eliminated that and moved that boundary on the north side down to include Bee Street, but to go no further north than Bee Street. Then, the one other change, and this was referenced in citizen comment tonight, is on Ashley Avenue, and this change takes the smoke-free zone on Ashley Avenue just a little bit south of Calhoun Street. You heard reference to the Hope Lodge, and that's on the corner of Calhoun and Ashley. The Medical University actually owns the property there on the east side of Ashley, on the south side of Calhoun where the drug store's located. So, we can extend that boundary just south on Ashley Street down to Halsey Street and still meet that commitment we mentioned last time; which is that we only apply the smoke-free zone to streets that are adjacent to MUSC or Roper-owned properties. So, in the case of Ashley Avenue here, we would be adjacent to the MUSC-owned property, and therefore, like all the other streets, the Public Safety Office at

MUSC could enforce the ordinance. So, those are the two changes since we last saw you a couple of weeks ago if you have any questions."

Mayor Riley asked, "Are there any questions of Mr. Keane? Councilmember White and Councilmember Lewis."

Councilmember White said, "I don't know if we need a motion on the floor just to begin debate."

Mayor Riley said, "Yes, sir."

Councilmember Lewis said, "I'll move that we approve the ordinance."

Councilmember Gregorie seconded the motion.

Councilmember White said, "I don't have a copy, and I wasn't here at the first opportunity to debate, and I don't have a copy of the ordinance currently in front of me, so I want to ask the question. It's kind of silly, probably, but you know, as somebody driving through these districts in their vehicle, does this only apply to a sidewalk?"

Mayor Riley said, "Yes, it does not apply to moving vehicles. Yes, sir. That's a good question."

Mayor Riley recognized Councilmember Lewis.

Councilmember Lewis said, "I'd just like to thank the staff and the members of MUSC for accepting this compromise because their main facilities do run from Calhoun Street to Bee Street, and I just couldn't see it extending past Bee Street. I think it's a good compromise, and I gave my word that if they would do that, I would support it. Certainly, I will support this ordinance tonight, and I ask that members of City Council support it also. Thank you."

Mayor Riley said, "Thank you. Would anyone else like to be heard?"

Mayor Riley recognized Councilmember Alexander.

Councilmember Alexander said, "Thank you, Mr. Mayor. I, too, appreciate some adjustments. I feel, however, compelled to at least speak to the freedom and liberty of our streets and sidewalks and to do that, and I'd like to place into the record the e-mail that I sent to Council on December 19<sup>th</sup>, which explained my feelings in that respect. I'll read it verbatim and make sure that the Clerk has a copy, too, to insert into the record. 'Lady and gentlemen, (and I realize that Councilmember Wilson was not there, but felt that she should be included), thank you all for the spirited debate about the extension of smoking prohibition in the City. I feel that I was less than clear in the opposition position that I had taken. Some nights we are on, some nights we are off. By way of this note, I wish to add some clarity. In rereading the e-mails from Dr. Greenberg, Mr. Dunlap, as well as newspaper reports before and after the vote, it is clear that the justification for criminalization of smoking on public streets is the wall of smoke, the public nuisance, if you will. The impact on the patient population, neighboring businesses, as a result of the building of the wall of smoke, has been described in detail. All agree the situation is unacceptable. In analyzing the cause and effect of the nuisance, we should question the metamorphosis. Let's begin with how the wall was built. The foundation of the wall was set by the internal policy of the healthcare institutions by the prohibition of smoking on their

campuses. Justified or not, that decision began the construction of the wall of smoke. Who built the wall of smoke? Having now been forced out of their workplace and treatment center, the staff, contract employees, patients, and the patients' families sought areas to practice their habit. They were forced into public streets and sidewalks. Mr. Dunlap, in an e-mail to me dated December 11<sup>th</sup> shared, and this is quoted from the e-mail, 'unfortunately, as the result of banning smoking within the hospital, employees and visitors tend to congregate on the streets immediately adjacent to the hospitals to smoke.' In the second e-mail received that same day, Dr. Greenberg shared the same information. 'As smokers have moved off of our respective campuses, they congregate on sidewalks and public areas adjacent to our properties.' These unaltered quotes, again, were cut and pasted directly from those e-mails. I've heard that the City views the prohibition as truly groundbreaking public policy. What I find truly groundbreaking is that an entity creates a public nuisance, then asks government to cure its creation. There is a cure, and that cure should be shared, and I've submitted to the Councilmembers for their consideration in this e-mail that we address the wall of smoke, that a hundred foot smoke-free zone should be established at all hospital entrances on the MUSC and Roper peninsula campuses by ordinance. Be it that MUSC and Roper hospitals accommodate their staffs, their contract workers, their patients, the patients' families, through the establishment of designated smoking areas on their property. The smoke-free zone tears down the wall of smoke, giving compromised patients healthy access to the facilities, establishing designated areas on the facility, removes the impact on neighborhoods and surrounding businesses. Public sidewalks are free for the public to use. I'm not here to debate the merits or the dangers of smoking. Much has already been established. What I'm here to address are the specific issues that were brought to this Council, that being the wall of smoke, the impact on the neighborhoods, and the impact on the surrounding businesses by the employees, the staff, the patients, the patients' families, the subcontractors of these facilities that have been forced onto the City streets to practice their smoking habit. That's what I believe we need to address. I believe the 100 foot rule addresses it. I believe that Roper Hospital designating an area returns their employees to their property. I would ask, by way of amending the ordinance, that we amend the ordinance to contain those two items, a 100 foot smoke-free zone around all hospital entrances and that Roper Hospital be required to accommodate their employees and staff, and I would ask for a second on that amendment and am willing to discuss that, as well."

Councilmember Mitchell seconded the motion.

Mayor Riley said, "A motion is made and seconded for the amendment proposed by Councilmember Alexander."

Councilmember Alexander continued, "As I said, Mr. Mayor, no one disputes the ills of tobacco and tobacco smoke. The question is accommodating the needs of neighborhoods, the hospital, and the patients. We've offered by amendment, a way to do that. So many times the City comes to us and some Councilmembers, particularly new ones have asked me 'why does the City only bring one way to do things; why are there not options for us to look at?' This is an option, an option to consider. A 100 foot rule, if you look at it and you look at the entrances to the hospital units, and you look at the parking lots, that covers the entrances to the parking lots, as well. It's a compact area. Quite frankly, the 100 foot rule will probably cover most of the properties, but it won't cover some of the areas that are non-treatment areas. This Councilmember asked to defer to develop a clean bill for Council to consider. With this amendment, there are details that certainly need to be worked out, and I would ask that third reading, if this amendment passes, be deferred to define hospital, to define the entrance because there are some cracks in this. This is something we should have been able to defer

and discuss at a later date. That was all that was asked in the beginning on first reading. I applaud accommodating Councilmember Lewis' wishes. It was the right thing to do. However, I think there's more discussion, and the discussion, given the dramatic impact on the public streets of the City, is worth further debate and consideration. Thank you."

Mayor Riley recognized Councilmember White.

Councilmember White said, "I think, and I'm not going to reiterate what Councilmember Alexander said, but I would say I support and agree 100 percent. I think he makes a great point, and even though I wasn't able to be here at first reading, I did keep in touch with Councilmembers and understood the situation. I do think that as you look at the issue that was created, and I think it's a valiant effort to try to create a smoke-free campus. However, it seems to me that's what happened is through that effort, an issue has been created, and so, it seems to me reasonable backing up and creating designated smoking areas as many places, including airports and other places around the country have, is a more viable solution to this, instead of trying to push these boundaries out. Quite frankly, I'm not supporting the merits of smoking or condemning them, but the reality of the situation is people or adults will choose to smoke, quite frankly, no matter what you do. So, pushing the boundaries out would just push them out, and so we may fix one problem today, but those people now north of Bee Street will be the next to complain. These people will go somewhere. Water finds its own level, and these people will find a place to go to do their habit, no matter what we do. So, the reality is, you have to accommodate those individuals, and it would seem to me that a designated smoking area handles that, so that's the only comment I'd like to make."

The Clerk said, "Mayor, you wanted to speak, and then Councilmember Gregorie."

Mayor Riley said, "I thank Councilmember Alexander, as always, for his thoughtful and careful approach to matters. I speak against the amendment. Tobacco smoke is poisonous. It's harmful to your health. It kills people. For any medical facility to have a smoking component in it, is so violently contradictory to the purpose that they exist. I can't imagine that there is a hospital now that has a smoking area, but it's just not something that I don't respectfully submit that you could reasonably expect a hospital to do. So, with that point, then we look at the area in red, and one thing that area in red has in common is that people who are sick are coming there. They're coming to the hospitals, and there are many hospitals there. They're coming to the doctors' offices, which are adjacent to the hospital. They're coming to the clinics. They're sick. They're coming to get treatment, various kinds of treatment, to visit their doctors or whatever, and it seems to me that their right to not be confronted with secondhand smoke that we know is harmful, that that's a higher right than the right of somebody to smoke cigarettes, which they have the right to do. If we are balancing them, it seems to me that the scale overwhelmingly moves in the direction of protecting people who are sick. I commend everybody involved in this, and the Medical University and Roper-St. Francis, and commend them for having smoke-free campuses, which lots of businesses have smoke-free campuses. I commend them for that and the American Cancer Society, the members of City Council and the citizens who have come forward, our staff and all who have worked hard on this. I think this is a model and reasonable action for the City to take to reinforce our commitment to good health and the importance of a hospital district being a healthy place for people to come who are ill or family members that are coming to people who are ill to not be confronted with secondhand smoke. I would urge that we oppose the amendments and approve the amendment and then second reading to the ordinance as amended."

Mayor Riley recognized Councilmember Gregorie.

Councilmember Gregorie said, "I would agree with you, Mayor Riley. I think that we should oppose the amendment, and I think it is admirable of my colleagues to be advocating for the rights of smokers. However, I think that we need to advocate a little more for the health and the benefit of the greater good of the community. I do think that this ordinance will do that. I've been waiting here for the last two Council meetings to see some folks come in, who are smokers who are opposed to it, but the only people that I see who are opposed to it are some Councilmembers who I think are non-smokers; but I have not seen any smokers come in here and say this is a bad ordinance. I think that smokers would think it's a good ordinance because it's also for the good of them."

Mayor Riley recognized Councilmember Waring.

Councilmember Waring said, "I think everybody in the room ought to know that came from a smoker."

There was laughter in the Chamber.

Councilmember Alexander said, "Who is quitting."

Councilmember Waring said, "I, too, would like to speak against the amendment, and the reason I say that, I commend my colleague and my friend from high school days for the hard work that he put into this amendment, and in particular, Councilmember Mitchell, for speaking up for the rights of smokers, but at least equally to that, are the rights of non-smokers. In looking at the history in this room, and looking at the age of this desk, I thought about the day and time in elementary school when we used to have these civil defense films. Some of us in this room are old enough to remember that. When the mushroom cloud went up on the screen, kids were taught to duck and cover, and after the mushroom cloud dissipated, we got out, and there was a whisk broom where you would brush off one student, and you would turn around, and the student would brush your back, and I guess the radiation was gone. We know better than that today, and there was a time when we thought secondhand smoke was harmless to the person who didn't inhale it. I relate that ignorance to 'duck and cover.' Do non-smokers have a right not to inhale secondhand smoke? I think so. There's not anybody out here marching today for the infirm who, for example, a sickle cell mother, who happens to be pregnant. That's certainly a high risk pregnancy. Should she have to walk through the wall of smoke that Councilmember Alexander so aptly describes? I think in coining that, I don't think I could have done that better myself, but I'd go a step further in that just as the smoker has the right on the sidewalk, it wasn't the employer that told or influenced or cajoled that individual into smoking. It was an individual choice that they took with their own freedom and liberty and decided to smoke. It wasn't an employer that said 'you must smoke.' So, the wall of smoke, I think the individuals who smoke have to take at least some responsibility in the creation of that smoke, so certainly I'll vote against this amendment. Thank you."

Mayor Riley recognized Councilmember Moody.

Councilmember Moody said, "I'm also going to vote against the amendment, and I appreciate Councilmember Alexander's effort there. I think we have a unique situation even in this hospital environment. With Roper and the Medical University, probably two of our largest employers within this area, we've got thousands of people. It's not like you see St. Francis Hospital where it's really open, or East Cooper or Trident. They are very open. This is a very confined group of masses of people that come in, and that's not even including the patients and

the visitors. So, we've got a real concentrated group of people in this area, and I think we need to protect them all. So, putting a smoking area here or there, just, it's still very concentrated, so I'm going to vote against it. Thank you, Mr. Mayor."

Mayor Riley said, "Thank you very much, Councilmember Moody."

Mayor Riley recognized Councilmember Mitchell.

Councilmember Mitchell said, "Mr. Mayor, as I mentioned before, at the last Council meeting, I pondered on this, and I prayed on it, and I still have not changed my position. I will vote for the amendment, even if it doesn't pass. I still think there's a right for both sides, smokers and non-smokers. I understand what you keep telling me about the health issue. I understand all of that. There are nurses in my family, doctors in my family; they're all in my family. Sisters who are nurses, brothers, cousins, as doctors. I know all of the health factors. I'm not knocking that I won't support this ordinance wholeheartedly, but I just cannot see myself supporting it the way it is. Dr. Bell and I had a long conversation, and I mentioned this to him. I told him my position on it. He told me his position on it. We went back a few years, and talked about the civil rights issues and things like that. If we're starting this now, and I came with that compromise of 100 feet, and I spoke to my colleague relative to the 100 feet, we have to start somewhere. Maybe we can move along to others, but then you create a wall of smoke everywhere we go because when we started the smoking issue, we stopped it in the restaurants. We stopped it in the bars. We created it then. When you walk down King Street, that's all you're going to get, a bunch of smoke coming in your face whether you do it or not. Where is it going to end? What's going to come next? Is somebody else going to come back and say 'we don't want the smoking in front of my building.' 'No, you can't do it because you're not a medical facility.' I've always felt, in the beginning when I first heard about this, that I could do it with that compromise in front of the hospital with the 100 feet. I said that from the beginning, and I'm still holding strong to that, and maybe by chance if it happens, we can extend it. But, to come out and hit it all of a sudden like we're doing now, I've just got some problems with it. I've got some reservations. Anytime I'm dealing with a public access, and we're giving it away, and the same people who are living in these areas happen to be the ones with the taxes that keep these sidewalks going. That's smokers and non-smokers, and I want to support this ordinance, but I just cannot support it the way it is, and I told you that from the beginning. I understand the health factor of all of this, but I just can't do it. I can't see myself doing it right now. My compromise is the same way with the 100 feet in front of all the facilities and having a sign out there, 'you're entering into this zone; there's non-smoking; if you enter into this zone, you will be fined,' period. Maybe we can extend it later, but when I received information on this at the beginning, I heard about this at the Christmas party, and we had four, five, or six days before we had to come in and vote on it. I had a problem with that. I should have had more time to do some research. I should have had some more time to even look at it. I had a problem with that, when you're dealing with something, to me, as important as this, when you're taking the sidewalk away from the public, and they have public rights. Both of them have rights. I wouldn't want anyone smoking near my grandkids, which I do not do near my grandkids. They'll tell you that. I don't do it because I know what secondhand smoke does, but this is still a public factor, and we still have to say everyone has rights, so I'll have to vote for the amendment even if it doesn't pass. I'm going to have to vote for the amendment, and if that doesn't pass, I'm just going to abstain. I cannot vote on the issue the way it is now. That's the way it is. That's my opinion on it."

Mayor Riley said, "Thank you very much, Councilmember Mitchell."

Mayor Riley recognized Councilmember White.

Councilmember White said, "I just want to make a quick, clarifying point to my comments that it's been commented by a couple of folks that, and I don't want to be misconstrued in my comments that I by anyway shape or form am condoning smoking or not. For me, this ordinance is simply not the best opportunity or solution to fix a problem that was created by the medical facilities making smoke-free campuses. So, for us to sit back and have to put forward and take care of legislation for problems that were created by the individuals, i.e., the Medical University, Roper and others, to me, we shouldn't be called in to fix these types of problems that folks created because it is a slippery slope when another business comes to us and says 'I have created this problem for myself; can you please write an ordinance to fix it?' I mean that's what we're doing, so effectively, I want to just clarify that my position has nothing to do with supporting smokers or condoning smoking at all or condemning them for that matter. I could really care less if someone chooses to smoke. That's their position; not mine. The point being is that I just don't believe, and I think a lot of folks put a lot of work into this, and so I don't want to take away from that on both sides, the opposition and for it. The reality is, I just believe there's a better solution. I think that we're just simply pushing out problems, pushing out problems, because as Councilmember Mitchell pointed out, there will be another business that will come and say 'oh, I want this around my business because now they're sitting out there and smoking in front of my building,' or it's going to the College of Charleston. The College of Charleston is going to say 'I don't want, and we're going to make it a smoke-free campus, and we're going to push it out, and we don't want the kids smoking on the campus.' It's just going to keep building and building. So again, I don't condone nor condemn smokers. I'm just simply saying, I think there's a better way to do this, and it's not use trying to legislate problems that businesses have created on their own."

Mayor Riley recognized Councilmember Wagner.

Councilmember Wagner said, "After we received Councilmember Alexander's e-mail, the 17<sup>th</sup>, 18<sup>th</sup>, 19<sup>th</sup>, after the last meeting, I also sent an e-mail and said I'd keep my mouth shut, and I was not to talk about it anymore, and I wouldn't vote because I'm very pro bias towards MUSC, and I listed the reasons why. I'm sitting here, and I've thought about this, and I've talked to several people that are my constituents, my friends, and I've come to the conclusion that what we have here is, we have to do the right thing. Now, we have two right things, and they're clashing, that being people should not have to walk through the wall of smoke to get to their doctors or their hospital. It will exacerbate asthmatics, COPD people, even people who have never smoked before and have COPD. That smoke's going to bother you. Any kind of fume or anything is going to bother them. Now, on the other side of that, we have the rights of other people, including the one that I thought so brilliantly stated, those who have the right to be stupid, such as I did when I was a younger man. I think the problem I'm having is kind of what Councilmember White referred to just now. Where does it stop? Okay, we do this here, what happens when the doctors over in Parkdale or on Daniel Island say, 'hey, I don't want anybody smoking in front of my building.' We have set a precedent that we're not going to it, or does it just keep going? I'm trying to figure out in my mind exactly what's the right thing to do. We have two rights things to do, and they're clashing, and it's driving me nuts to tell you the truth. I think maybe we moved a little too quickly on this. I really think possibly we should have deferred it until this meeting for first reading. I believe that wholeheartedly and ran my mouth for a good three of four minutes about it at the last Council meeting. I'm not sure what the right answer is. I can't find fault in what Councilmember Alexander said. I can't find fault in what Councilmember Mitchell, Councilmember White, or anybody else said, so what is the real right thing to do? Compressing the district was number one on my priority. I'm very glad to see that happen. I

don't what I'm going to do. I know it's going to be called for a vote here in a couple minutes, but that's all I've got to say. I think we're all wrestling with those same two demons. We have two rights and no wrong."

Mayor Riley said, "Councilmember Wilson, and then I'll speak again."

Councilmember Wilson said, "One quick comment just because I have been silent on this to let my colleagues and those in the gallery know, I must recuse on this issue being an employee at the Medical University. So, in consultation with the Ethics Commission and that sort of thing, they advised me regardless of whether I earn five dollars or \$500,000, it's the same, and by the sound of it, I couldn't have picked a better one."

There was laughter in the Chamber.

The Clerk added, "She has completed her form."

Councilmember Wilson continued, "Yes, and so I wanted to let everyone, for those of you who may not know why I had to recuse from this. Thank you."

Mayor Riley said, "In the matter of precedent, the precedent is precise. This is a hospital district. It's a large district where thousands of sick people come every day. It's different if a business were to say 'I want this,' or a medical/dental office, or something like that, then you'd say 'no, we did it because we did it for a hospital district,' probably the largest hospital district in South Carolina. The Medical University, Medical University Hospital, the Ashley River Center, Hollings Cancer Center, the Children's Hospital, the VA Hospital, Roper Hospital, the old St. Francis building where people go, the various doctors' offices, there's a huge medical district. 'Why did you do it for them?' We did it because it was a large medical district, and thousands of sick people come there every day, and we thought it was right to protect them from having to go through secondhand smoke when they're sick, whether it's a respiratory illness or whatever they got, just feeling bad as the dickens and going to the doctor or going for whatever. We're protecting them, we gave them the higher right. I would think that's a very easy precedent to defend down the road, and I would be able to easily make that argument to anyone. Right now, we have the chance to vote in favor of good health and those who are trying to get well to not cause them to be confronted with something that we know is harmful to them. I would hope that we would vote against the proposed amendment. Is there any further discussion?"

Mayor Riley continued, "The motion is Councilmember Alexander's amendment. Those in favor of Councilmember Alexander's amendment, signify by raising your right hand."

Councilmembers White, Hallman, Mitchell, Wagner, Alexander, and Riegel raised their right hands.

Mayor Riley then said, "Those opposed like sign."

Councilmembers Lewis, Gregorie, Waring, Seekings, Moody, and Mayor Riley raised their right hands.

Councilmember Wilson abstained from the vote. A completed Conflict of Interest form is on file in the Clerk of Council's office.

The Clerk announced, "Actually, we have a tie. We have a tie. Tell me if I'm correct. The ayes are Councilmembers Alexander, Mitchell, White, Hallman, Wagner, and Riegel, so we have a 6/6 tie."

The motion to accept Councilmember Alexander's amendment to Item K-3 failed.

Mayor Riley said, "Okay, so the motion fails. So, now we have the proposed amendment to the ordinance bringing the boundary down to Bee Street and also down Ashley Avenue to cover the adjacency of the Hope Lodge and Medical University building. Is there a motion for that amendment?"

Councilmember Lewis moved to approve the amendment to the ordinance. Councilmember Seekings seconded the motion.

Mayor Riley continued, "Is there any discussion?"

Mayor Riley recognized Councilmember Seekings.

Councilmember Seekings said, "Thank you, Mr. Mayor. Very briefly, Councilmember Wagner said when presented with two rights, he had a tough choice to make. Now, you're presented with one."

There was laughter in the Chamber.

Councilmember Seekings said, "So, I hope you'll vote for it, and let me just say this. When you're presented with two rights, it's a good position to be in, and you go and look to the very people at the core of it, and people have asked for this, and the people that have asked for this are the medical community. The other thing is, the difference between this map and 100 feet, and this map is definitive. You know exactly where it applies and where it doesn't. You're going to march off 99 feet, 102 feet, it just becomes unwieldy. This makes sense. It's easy to touch. You've now got one right. Please vote for this. We've worked hard on it. Let us get moving forward, and let's give the hospital zone a health environment in which to do business. That's what we're here to do. They've asked us for it. I just don't see any reason not to vote in favor of it. I would urge my Councilmembers, particularly those who are torn between two rights, to pick this one which is now out there in front of them. Thank you."

Mayor Riley said, "Thank you."

Mayor Riley recognized Councilmember Alexander.

Councilmember Alexander said, "Thank you, Mr. Mayor, and as always, I appreciate the spirited debate. That's the purpose of our meeting, to give opinion and witness to our thoughts and the thoughts of those that we represent. I'm a non-smoker, have been for years. One of the doctors said it's one of the hardest things that you'll ever do. It truly is. I commend Councilmember Gregorie for going through the process right now. It truly is difficult. What I find also difficult is that because it is such a hard process, sometimes instead of making the hard effort to educate, to inform, that many times I find that groups run to government and say, 'please use your heavy hammer to make folks do what we think they should do,' and that does disturb me philosophically. The last comment that I'd like to make is, and again, I apologize for reading, but I think it's very appropriate. 'I believe there are more instances of the abridgement of the freedom of the people by gradual and silent encroachments of those in power than by

violent or sudden usurpations.' That's from James Madison in addressing the Virginia Convention on June 16, 1788. In anything that we do, any decision that we make, as I've said before, our mission is to protect the public, and who protects the public from us? There's only one thing: the Constitution. There are liberties. There are freedoms. There's no freedom to smoke; it's not written in the Constitution, but there is the Ninth Amendment, which I'm sure that my learned Councilmembers are very familiar with, and one of my other Councilmembers made fact to how do you weigh liberties? Well, everyone has these liberties, and my liberty, your liberty, is as important to me as it is to you. That's all I ask in when we weigh these decisions. Think about the liberties of the people that you're making these decisions for. Thank you, Mr. Mayor."

Mayor Riley said, "Thank you, Councilmember Alexander. I just respectfully believe that liberty is somebody who's ill to go to a hospital district and not have to walk through something that could make them sick and is poisonous, is the more important liberty. As one of the Councilmembers said, we had Citizen Participation Period, and we haven't had smokers coming and saying this is a terrible infringement of my right. If they want to smoke, there are places they can go to smoke. We're just saying if you're coming to a hospital district in Charleston, SC, we're interested in your health, and we've got a hospital district that has a smoke-free zone around it, a wonderful thing. I think it's a far more important right. We have the duty to protect the rights of people, and I think sick people are a very important group of people that we ought to be trying to help and enforcing the ethics and the practices and the good work of the medical institutions in our hospital district is a very important duty and responsibility that we have. I would hope that the amendments will be approved. Yes, sir."

Mayor Riley recognized Councilmember Lewis.

Councilmember Lewis said, "Yes, I was one of the people that voted against the smoking ban in restaurants and bars, and that was a big fight, a real big fight. It was something that we had to wrestle with. I'm not a smoker, never smoked, but I just felt within my heart that this ordinance, the way it was written, if we could compact it close to the hospital district, and we could stop at Bee Street, would be a good compromise because we are protecting sick people. I go to MUSC. I go to the hospitals and most of us probably visit there, have been there for one reason or another, and we don't want to walk through all the smoke and stuff. It was difficult for me to even come up with this amendment, but I felt that if I was going to vote for it, we just couldn't take it all the way to Septima Clark Expressway or to Cannon Street. I know what the hospital zones are and ask that we keep it in the hospital zone, and the Mayor, the staff, and the faculty of MUSC or Roper accepted this compromise. I ask that you vote on this compromise. Let's take it at Bee Street, and let this ordinance pass, please."

Mayor Riley said, "Ms. Cantwell. Let me say this. I'm sorry. Councilmember Hallman, yes, sir."

Councilmember Hallman said, "Thank you, Mr. Mayor. I thought that one of the biggest concerns we've talked about here besides overreach was the right of the patients who are going to MUSC, and it was my feeling that Councilmember Alexander's proposed amendment resolved that issue by getting rid of the wall of smoke around the entrances to the hospital, but that's now past. I am going to vote for this ordinance because it is a hospital zone. I do have that concern that we are setting a precedent of expansion, and that needed to be said."

Mayor Riley said, "What we have before us is the amendment that Ms. Cantwell has prepared that is the new map. That's what it is. It brings the boundary from Cannon Street to

Bee Street and then extends it on Ashley Avenue slightly below Calhoun Street to respect the cancer patients at Hope Lodge who are sick and that brings it down to Ashley Avenue just a little bit. Is that right Ms. Cantwell?"

Frances Cantwell said, "Those are the only two changes. Essentially, one block of Ashley south of Calhoun and Halsey Street, and then anything north of Bee Street has been omitted at Councilmember Lewis' suggestion."

Mayor Riley recognized Councilmember Waring.

Councilmember Waring said, "I'd like to thank Councilmember Lewis for his amendment, quite frankly, because it did compact the area. I'd like to thank Councilmember Hallman for his words just now. You said it earlier, but I think it needs reiterating. We have three regional hospitals in a compacted area. Most of us are familiar with the State of South Carolina. Columbia doesn't have that in the capital. Their VA hospital is miles from the Baptist Hospital. The Baptist Hospital is miles away from Richmond Memorial. Richmond Memorial is miles from Presbyterian Hospital. You go up to Greenville, certainly a similar situation. Myrtle Beach, they don't have as many hospitals. Hilton Head, a similar situation. Orangeburg has one hospital. I can't think of another place in this state where you have a confluence of not only sick people, but we're also talking about people on the cutting edge of research for, quite frankly, illnesses and diseases that there isn't any cure for. That's what they go to that university for, some of the cutting edge medical science that's noted in the world is done right here in the bosom of the City of Charleston in South Carolina. To my noted colleague to my left, the words of James Madison certainly apply to non-smokers, as well. Thank you."

Mayor Riley said, "Let me just say, this afternoon I went to see somebody who's sick that you all know, but they're there in privacy, and I parked, and it was clearly more than 100 feet from the hospital. I wasn't sick, but I mean, that's nothing in this hospital district, a 100 feet from the entrance to the hospital. I think the district is reasonable. I think we're doing something for people who are ill, and we're striking a blow for their freedom."

Mayor Riley continued, "Those in favor of the motion to accept the amendment, which was made, the amendment which is to change the map as recommended by Councilmember Lewis, those in favor of the motion to accept the amendment, signify by raising your right hand."

Councilmembers Hallman, Lewis, Wagner, Gregorie, Waring, Seekings, Moody, and Mayor Riley raised their right hands.

Mayor Riley continued, "Those opposed, like sign."

Councilmembers White, Mitchell, Alexander, and Riegel raised their right hands.

On a motion of Councilmember Seekings, seconded by Councilmember Lewis, City Council voted to accept the amendment to Item K-3. The vote was not unanimous. Councilmembers White, Mitchell, Alexander and Riegel voted nay. Councilmember Wilson abstained from the vote.

Mayor Riley continued, "The amendment carries. Now, the question is shall the bill as amended be given second reading, and ordered to third reading?"

On a motion of Councilmember Seekings, one bill (Items K-3) received second reading. The bill passed second reading on motion of Councilmember Waring and third reading on motion of Councilmember Lewis. On further motion of Councilmember Gregorie, the rules were suspended, and the bill was ratified as:

**2013-03**      AN ORDINANCE TO AMEND THE CODE OF THE CITY OF CHARLESTON BY ADDING TO CHAPTER 21, ARTICLE VI, OFFENSES AGAINST PUBLIC HEALTH, A NEW SECTION 21-133 PERTAINING TO SMOKING ON CERTAIN STREETS AND SIDEWALKS WITHIN AND ABUTTING THE MEDICAL UNIVERSITY OF SOUTH CAROLINA AND ROPER HOSPITAL FACILITIES (AMENDED).

The vote was not unanimous. Councilmembers White, Mitchell, Alexander, and Riegel voted nay.

Councilmember Wilson abstained from the vote.

Mayor Riley said, "Without objection, it is ratified. Let me just say, we're about finished, but I thank every person who commented; their comments were thoughtful and earnest. A civil discussion occurred, which is commendable. I believe the other ordinances are deferred."

The Clerk said, "Mayor, we actually have two. The first two under first readings."

Mayor Riley clarified, "I meant under second readings."

The Clerk said, "Yes."

Mayor Riley said, "So, now we move to first readings. We have the first ordinance."

Councilmember Mitchell said, "One and two."

Mayor Riley asked, "Is there a motion to give those first reading?"

On a motion of Councilmember Gregorie, seconded by Councilmember Mitchell, City Council voted unanimously to give first reading to the following bills:

*An ordinance to amend Sec. 2-183 (b) of the Code of the City of Charleston to provide that members of City Council serving on the City Council/ Citizen Sustainability Advisory Committee shall serve on a rotating basis for a term of two (2) years.*

*An ordinance to amend the Zoning Ordinance of the City of Charleston by changing the Zone Map, which is a part thereof, so that Clements Ferry Road (Cainhoy) (6.84 acres) (TMS #271-00-02-159), be zoned Light Industrial (LI) classification.*

There being no further business being presented, the meeting adjourned at 6:50 p.m.

Vanessa Turner Maybank  
Clerk of Council